

# THE LEGISLATOR AS CONTROLLER OF THE PURSE STRINGS

## *How Legislators Shape Policy through the Budget Process*

### OVERVIEW

The legislator as an individual and the legislature in general shape the policy of the state through control of the purse strings, specifically through the amendment and enactment of the operating and capital outlay budgets. The constitution vests the authority for appropriation of state monies and the power of state taxation solely with the legislature.

### SELECTED CONSTITUTIONAL PROVISIONS

The constitution provides the framework by which the legislature controls the purse strings.

- ♦ No money shall be withdrawn from the state treasury except through a specific appropriation made in accordance with law.
- ♦ No appropriation shall be made under the heading of contingencies or for longer than one year.
- ♦ Appropriations by the legislature from the State General Fund or from dedicated funds shall not exceed the official forecast of the Revenue Estimating Conference or the expenditure limit.
- ♦ All bills raising revenue or appropriating money shall originate in the House of Representatives.
- ♦ The power of taxation shall be vested in the legislature and shall never be surrendered, suspended, or contracted away, and shall be exercised for public purposes only, except as otherwise provided for in the state constitution.
- ♦ Unless otherwise authorized by the state constitution, the state shall have no power to incur debt or issue bonds except by law enacted by two-thirds of the elected members of each house of the legislature.

Areas of particular importance in understanding the legislature's exercise of this policy-making role through the budget process are detailed in the following pages and include these sections:

♦ **Resources to Assist the Legislator - Fiscal Matters**

In handling this important responsibility, the House of Representatives has a number of resources available to it, including the Fiscal Division of House Legislative Services, the Legislative Fiscal Office, the Legislative Auditor, and the Legislative Actuary. A description of the responsibilities and services of each office is provided.

♦ **Revenue and Bonded Indebtedness**

A summary of major state revenue sources, requirements for incurring debt, limitations on state debt, and the jurisdiction of the Ways and Means Committee is provided.

♦ **The Budget Process**

The operating budget process is described, including adoption of the official revenue forecast, content and submission of the executive budget, jurisdiction of the Appropriations Committee, types of appropriation bills, and interim budget procedures. The composition and responsibilities of the Joint Legislative Committee on the Budget and the Interim Emergency Board are summarized.

♦ **The Capital Outlay Process**

A summary of the state's capital outlay program, its phases, requirements and types of funding.

## RESOURCES TO ASSIST THE LEGISLATOR – FISCAL MATTERS

### *How Staff Can Help House Members with Money Issues*

Each member of the House of Representatives may seek assistance from the Fiscal Division of House Legislative Services, the Legislative Fiscal Office, the Legislative Auditor, and the Legislative Actuary. Additionally, many other state and national sources of information and assistance are available.

#### **HLS FISCAL DIVISION**

The Fiscal Division of House Legislative Services provides staff for the Appropriations and Ways and Means Committees and their members. The division includes budget analysts who specialize in specific areas of governmental finance. The Fiscal Division staff provides assistance to all House members in matters dealing with the jurisdiction of these committees and with state fiscal policy issues. These services provided by the staff include:

- ♦ Legislative instruments – Drafting bills and resolutions, including amendments.
- ♦ Committee staffing – Analysis of legislation referred to committees and coordination and management of committee functions.
- ♦ Budget analysis – Analysis and evaluation of fiscal and budgetary information, including the governor's budget recommendation, and performance data related to the operation of state government.
- ♦ Research – Performance of fiscal research and policy analysis, legal research concerning the state budget and revenue issues, and other research as requested by committees or members of the House and its staff. Research includes analysis of comparative state revenue and expenditure information.
- ♦ The division also assists the Appropriations Chairman as the Chairman of the Joint Legislative Committee on the Budget when that position rotates to the House every two years.

#### **LEGISLATIVE FISCAL OFFICE**

In accordance with the general direction and supervision of the Joint Legislative Committee on the Budget (Budget Committee), the Legislative Fiscal Office duties and functions include the following:

- ♦ Monitoring, reviewing and analyzing the performance of state agencies and calling attention to inefficient and uneconomical practices.
- ♦ Continuous short and long-range revenue and expenditure projections.

- ♦ Preparation of fiscal notes for proposed legislation, which detail the legislation's effect on state revenues and expenditures.
- ♦ Review of requests for interim budget adjustments (BA-7s) and recommendations to the Budget Committee as to the merits of such requests.
- ♦ Review of rules and regulations by the executive branch and informing the legislature and the public as to the fiscal and economic impact of such proposed rules and regulations.
- ♦ Evaluation of requests submitted to the Interim Emergency Board and recommendations of approval or disapproval.
- ♦ Responding to fiscal information requests of committees and individual legislators to the extent practical.

#### LEGISLATIVE AUDITOR

The constitution provides that the legislative auditor shall serve as a fiscal advisor to the legislature and perform duties and functions provided by law related to auditing fiscal records of the state, its agencies, and political subdivisions (*Const. Art. III, §11*). The auditor is elected by a majority vote of the elected members of each house and may be removed by a two-thirds vote of the elected members of each house. The basic functions of the office of the legislative auditor (*R.S. 24:511 et seq.*) encompass the following:

- ♦ Audit of books and accounts of the state treasurer, and other public entities, departments, and political subdivisions, the scope of which may include certification of financial accountability, legal compliance, and evaluations of the economy, efficiency, and effectiveness of the entity audited.
- ♦ Audit of the accounts and records of each tax collector at least once a year.
- ♦ Audit of a municipality or any public, quasi public, or private agency receiving state funds when requested to do so by the Legislative Audit Advisory Council, the legislature, or a grand jury.
- ♦ Determination of all funds in the state treasury.
- ♦ Submission to the legislature and the governor, prior to each regular session, his report on the financial statements of the state, together with such comments on internal control structure and compliance with laws and regulations that are appropriate.
- ♦ Preparation of fiscal notes for proposed legislation affecting the expenditures of local government and the receipts and

expenditures of any state board or commission which is not appropriated any funds in any appropriation bill.

- ◆ Conduct of performance audits, program evaluations, and other studies as needed to enable the legislature to evaluate the efficiency, effectiveness, and operation of state programs.

The legislative auditor fills the role of state auditor and reporter on the financial affairs of the state. In fulfilling these functions, the legislative auditor is aided and advised by the Legislative Audit Advisory Council.

#### **LEGISLATIVE ACTUARY**

The legislative actuary serves as an advisor to the legislature on issues related to public retirement systems. The basic functions of this office (R.S. 24:521) encompass the following:

- ◆ Preparation of actuarial notes, which are estimates of the immediate and long-range financial and actuarial effects of proposed legislation relative to any state, parochial, or municipal retirement system funded wholly or partially from public funds.
- ◆ Responding to requests for actuarial information requests of committees and individual legislators.



## REVENUE AND BONDED INDEBTEDNESS

### *Key Facts about Sources of Revenues and Incurring Debt*

#### CONSTITUTIONAL PROVISIONS RELATING TO REVENUE MEASURES

- ♦ All bills raising revenue shall originate in the House of Representatives.
- ♦ The levy of a new tax, an increase in an existing tax or a repeal of an existing tax exemption shall require the enactment of a law by two-thirds of each house of the legislature.
- ♦ Any new fee or civil fine or increase in an existing fee or civil fine, except by a department headed by a statewide elected official, also must be enacted by a two-thirds vote of the legislature.
- ♦ Regular sessions convening in odd-numbered years are restricted to consideration of legislation enacting the General Appropriation Bill and the comprehensive capital budget, or to make an appropriation; levy or authorize a new tax or increase in an existing tax; levy, authorize, increase, decrease, or repeal a fee; dedicate revenue; legislate with regard to tax exemptions, exclusions, deductions, repeals, or credits or to the issuance of bonds. In addition, each member may introduce up to five matters which are not within the subject matter restrictions on such session if it is prefiled or is a local or special law which is not prohibited and has been advertised.
- ♦ No measure levying or authorizing a new tax by the state or a political subdivision whose boundaries are coterminous with the state, increasing an existing tax by such entities or legislating regarding tax exemptions, exclusions, deductions or credits may be introduced or enacted during regular sessions held in even-numbered years.
- ♦ A political subdivision of the state shall not levy a severance tax, income tax, inheritance tax, or tax on motor fuel.

#### WAYS AND MEANS COMMITTEE

The subject matter jurisdiction of the Ways and Means Committee encompasses taxes and the raising of revenue; bonds and the bonding of revenue, including issuance, payment or retirement of bonds; evidences of indebtedness; the Department of Revenue; revenue collection; assessors; parish tax collectors; and the bond portion of the comprehensive state capital budget.

## MAJOR STATE REVENUE SOURCES

The Fiscal Year 2011-2012 total state budget from all means of financing is \$29.9 billion, of which \$11.1 billion is federal funds and \$18.8 billion is state funds, including the State General Fund, dedicated funds, and fees and self-generated revenues. The Fiscal Year 2011-2012 State General Fund as forecast by the May, 2011 official forecast of the Revenue Estimating Conference is \$8.264 billion. The major revenue sources are sales tax, individual income tax, corporate income and franchise taxes, gaming revenues, gasoline tax, and severance tax. The state constitution sets a rate limit on the individual income tax and the motor vehicle license tax, requiring a constitutional amendment to increase the tax rate of these two revenue sources.

## BONDED INDEBTEDNESS

The state may incur debt or issue bonds only by law enacted by two-thirds of the members of each house of the legislature, and then only if the funds are to be used for any of the following purposes: to repel invasion, suppress insurrection, provide relief from natural catastrophes, refund outstanding indebtedness at the same or a lower effective interest rate, or make capital improvements in accordance with the comprehensive capital budget adopted by the legislature. The legislature may also, by a two-thirds vote of each house, propose a statewide public referendum to authorize incurring of debt by the state for any purpose for which the legislature is not authorized to incur debt. All state general obligation bonds and certain bonds of state agencies, boards, and commissions which are secured by the full faith and credit of the state are secured by the Bond Security and Redemption Fund (*Const. Art. VII, §6 and §9 (B)*).

No bonds or other obligations are to be issued or sold by the state directly or through any state board, agency, or commission, or by any political subdivision of the state, unless prior written approval of the **State Bond Commission** is obtained (*Const. Art. VII, §8*).

The membership of the Bond Commission is as follows: the state treasurer, who serves as chairman; the governor; the lieutenant governor; the secretary of state; the attorney general; the commissioner of administration; the president of the Senate; the speaker of the House; the chairmen of the Senate Finance Committee, the House Appropriations Committee, the Senate Revenue and Fiscal Affairs Committee, and the House Ways and Means Committee; and two members of the legislature to be appointed one each respectively by the President of the Senate and Speaker of the House.

## DEBT LIMIT

Louisiana's debt limit is established so that for Fiscal Year 2003-2004 and thereafter the amount necessary to service outstanding net state tax-supported debt (NSTSD) does not exceed 6% of the estimated money to be received by the state general fund and dedicated funds contained in the official forecast of the Revenue Estimating



Conference (*Const. Art. VII, §6(F) and R.S. 39:1367*). The most recent status report (2/17/11) on NSTSD indicates that for Fiscal Year 2011-2012 the actual amount necessary to service such debt is 5.14%.

Included in NSTSD calculations are general obligation bonds secured by the full faith and credit of the state; debt secured by capital leases of immovable property payable by the state or annual appropriations of the state; debt secured by statewide tax revenues or special assessments; and bonds secured by self-supported revenues which in the first instance may not be sufficient to pay debt service and will then draw on the full faith and credit of the state.

R.S. 39:1365(25) provides that the legislature may not authorize general obligation bonds if the amount authorized but unissued plus the amount outstanding exceeds two times the average annual revenues in the Bond Security and Redemption Fund for the last three fiscal years. R.S. 39:1402(D) provides that the bond commission shall not issue bonds secured by the full faith and credit of the state at any time when the highest annual debt service requirement for the current or any subsequent fiscal years exceeds ten percent of the average annual revenues of the Bond Security and Redemption Fund for the last three fiscal years.



# THE BUDGET PROCESS

## *The State Budget Process and the Legislature's Role in Planning, Adoption, and Oversight*

### CONSTITUTIONAL PROVISIONS RELATING TO APPROPRIATIONS

- ♦ All bills appropriating money shall originate in the House of Representatives. The general appropriation bill shall be itemized and contain only appropriations for the ordinary operating expenses of state government. All other appropriations shall be for a specific purpose and amount.
- ♦ The governor may veto any line item in an appropriation bill.
- ♦ The governor shall submit to the legislature a budget estimate for the next fiscal year setting forth all proposed state expenditures, which shall not exceed the official forecast of the Revenue Estimating Conference and the expenditure limit for the fiscal year.
- ♦ The governor shall cause to be submitted a general appropriation bill for proposed ordinary operating expenditures which shall be in conformity with the recommendations for appropriations contained in the budget estimate.
- ♦ Appropriations by the legislature from the state general fund or from dedicated funds shall not exceed the official forecast of the Revenue Estimating Conference or the expenditure limit.
- ♦ The appropriation of any money designated in the official forecast as nonrecurring shall be made only for the purpose of early retirement or defeasance of state debt, payments on the unfunded accrued liability of public retirement systems, capital outlay, deposit into the Budget Stabilization Fund and the Coastal Protection and Restoration Fund, or for new highway construction for which federal matching funds are available.
- ♦ Appropriations shall be made only for a public purpose.

### BUDGET PLANNING AND PREPARATION

#### STATE FISCAL YEAR

The state fiscal year for which appropriations are made begins on July 1 and ends on June 30.

## REVENUE ESTIMATING CONFERENCE

The Revenue Estimating Conference establishes an **official revenue estimate** (formally known as the "official forecast") for use by the governor and the legislature in preparing and adopting the budget for each fiscal year, including designation of money that is nonrecurring. The principals of the conference are the governor, the president of the Senate, the speaker of the House, and a faculty member with revenue forecasting expertise from a public or private university in the state. Any final action establishing the official forecast must be made by a unanimous decision of the conference principals. Any change to add members to the conference or change to the unanimous vote requirement must be made by law enacted by two-thirds of the members of each house. The conference is to meet quarterly and also at any time two principals suggest that a possible revision of the forecast be considered (*Const. Art. VII, §10(A)(B)*).

In its adoption of a revenue forecast, the Revenue Estimating Conference will designate whether monies available for appropriation are **recurring or nonrecurring**. A budget surplus from a prior year has been a common source of nonrecurring revenues recognized in recent years. Those monies which have been designated as nonrecurring are limited in their use to: early retirement or defeasance of state debt, payments on the unfunded accrued liability of the public retirement systems, capital outlay, deposit into the Budget Stabilization Fund, deposit into the Coastal Protection and Restoration Fund, or for new highway construction for which federal matching funds are available.

**Appropriations or expenditures** for any fiscal year **shall not exceed the official forecast** of monies available for appropriation as determined in the most recently adopted official forecast for that fiscal year. Such appropriations and expenditures from the State General Fund and certain dedicated funds are as well limited by the **expenditure limit** for that fiscal year.

## EXPENDITURE LIMIT

Appropriations from the State General Fund and dedicated funds may not exceed the expenditure limit for the respective fiscal year. Each year's expenditure limit is calculated by increasing the expenditure limit for the previous fiscal year by a positive growth factor. The growth factor is the average annual percentage rate of change of personal income for Louisiana for the three calendar years prior to the fiscal year for which the limit is calculated (*Const. Art. VII, §10(C)*).

The expenditure limit for each fiscal year is calculated by the commissioner of administration for the purpose of development and enactment of the ensuing year's state budget. This calculation must be presented to the Joint Legislative Committee on the Budget at least 35 days prior to the start of each regular session of the legislature. The expenditure limit calculated by the commissioner of administration may

be changed in any fiscal year by a favorable vote of two-thirds of the elected members of each house. In the 2007 Regular Session the legislature voted to increase the expenditure limit for Fiscal Year 2006-2007 from **\$10.3 billion to \$12.2 billion** to allow for the appropriation of surplus revenues from the prior year (\$827 million) and additional revenues which were incorporated into the official forecast for Fiscal Year 2006-2007 since the prior legislative session. In the 2008 Second Extraordinary Session, the legislature voted to increase the expenditure limit from **\$11.6 billion to \$12.6 billion** to allow for the appropriation of surplus revenues from Fiscal Year 2006-2007 (\$1 billion). The expenditure limit for Fiscal Year 2011-2012 is \$14.9 billion. Federal monies, transfers between state agencies, and self-generated monies of public institutions of higher education are excluded from those monies considered in the development of the expenditure limit.

#### EXECUTIVE BUDGET

The governor is responsible for preparation of an executive budget presenting a complete financial and programmatic plan for the ensuing fiscal year based upon the official forecast of the Revenue Estimating Conference and within the expenditure limit for that fiscal year. The executive budget is a summary document which is to clearly present and highlight the programs operated by state government and financial requirements associated with each. It is accompanied by a supporting document which provides additional detail on the budget and performance recommendations for each program.

No later than November 15 of each year, each budget unit (state agency) must submit to the governor its budget request for the coming fiscal year. The executive budget office analyzes the budget requests and other information in preparing the executive budget.

A copy of the executive budget is transmitted to the Joint Legislative Committee on the Budget no later than 45 days prior to each regular session and to each member of the legislature on the first day of each regular session. (In the year of a first regular session of a new legislative term, the executive budget is provided to the Budget Committee 30 days prior to the start of the session.) Any proposals by the governor to enhance revenues beyond the official forecast, or to expend monies in excess of the expenditure limit, must be submitted separate and apart from the executive budget.

#### PERFORMANCE-BASED BUDGETING

By law the state budget is a performance-based budget. Key objectives and performance targets for each program are included in the executive budget and the appropriation bill, linking performance expectations to funding levels of each program to enhance accountability. Additional supporting objectives and performance targets are included in the executive budget supporting document. Agencies are required to report during the year on progress toward meeting their performance targets.

## BUDGET ENACTMENT

### APPROPRIATIONS COMMITTEE

The Appropriations Committee has 25 members: one member elected from each of the seven congressional districts of the state by House members from the district and the remaining 18 members appointed by the speaker, of whom one is appointed from each of the five Public Service Commission districts and seven congressional districts and six at large.

The Appropriations Committee has six standing subcommittees which are responsible for the review of certain parts of the Executive Budget. These subcommittees are: Education, General Government, Health and Human Services, Business Development, Infrastructure and Resources, and Public Safety and Corrections.

The subject matter jurisdiction of the committee includes matters related to the appropriation and expenditure of funds, fiscal controls, deposit and investment of public funds, cash flow, economy and efficiency in government, budgetary procedures, and procurement of goods and services and professional, personal, and consulting services. The committee also considers legislation originating in the Senate which is estimated to have an impact on expenditures which exceeds \$500,000.

### TYPES OF APPROPRIATION BILLS

- ♦ **General Appropriation Bill** – This bill provides for the annual operating budgets of state agencies, and includes both appropriated funding levels and performance targets for the year. The bill is submitted to the legislature by the governor and must be in conformity with the executive budget. The legislature reviews and modifies the programs and recommended expenditures contained in the bill. Amendments increasing appropriations are generally added in line item form and are subject to gubernatorial veto.
- ♦ **Capital Outlay Bill** – Only the projects funded by cash sources, commonly referred to as the cash portion of the bill, is reviewed and amended by the Appropriations Committee. The bond portion of the bill is within the jurisdiction of the House Committee on Ways and Means.
- ♦ **Ancillary Appropriation Bill** – This bill provides for appropriation of funds as working capital for the financing of business enterprises conducted by state agencies, such as self-insurance programs, prison enterprises, cafeterias and printing centers. Appropriations are made out of special revolving working capital funds into which revenues from the operation of these

enterprises are deposited, and from which allotments are made.

- ♦ **Legislative Expense Bill** – The expenses of the legislature and its service agencies including House Legislative Services, Senate Research Services, the Legislative Auditor’s Office, the Legislative Fiscal Office, the Law Institute, and other support services are appropriated by means of the legislative expense bill rather than the general appropriation bill. **The Legislative Budgetary Control Council** is charged by law (R.S. 24:38) with the responsibility of reviewing and controlling the budget and expenses of the legislature and its agencies. The council is composed of the following members: the president of the Senate, the president pro tempore of the Senate, the speaker of the House, the speaker pro tempore of the House, the chairman and one member of the Senate and Governmental Affairs Committee, the chairman and one member of the House and Governmental Affairs Committee, the chairmen of the House Appropriations and Senate Finance Committees, and, ex officio, the clerk of the House and the secretary of the Senate.
- ♦ **Judicial Expense Bill** – The appropriation for the expenses of the judiciary, including the supreme court, courts of appeal, district courts, and other courts, is also provided for in a separate appropriation bill. The budget preparation and expenditure control function is vested in the **Judicial Budgetary Control Board**.
- ♦ **Revenue Sharing Bill** – \$90 million is allocated annually from the State General Fund to the Revenue Sharing Fund. Monies in the fund are distributed based on the population and number of homesteads in each parish in proportion to the population and number of homesteads statewide. The revenue sharing bill, after providing deductions for retirement systems and commissions, provides for distributions to local tax recipient bodies in each parish in an amount and manner specified in the bill. (*Const. Art. VII, §26*).
- ♦ **Judgment Bills** – Final judgments which are not paid through the risk management program require an appropriation of funds by the legislature for payment. Appropriations Committee staff review and authenticate documentation involved in the judgment, and bills appropriating funds to pay the judgments are reviewed by the Appropriations Committee.
- ♦ **Supplemental Appropriation Bills** – Appropriations for the current fiscal year which are made during that fiscal year and which are supplemental to the state budget which was adopted by the legislature in the previous Regular Session. They provide for unanticipated expenses by utilizing excess monies available for appropriation which were not available at the time of adoption of

that year's budget or which, by their nature, are unavailable for addition through interim budget adjustment.

- ♦ **Other Appropriation Bills** – These include special nonrecurring expenses of the state, which may include issues such as recommendations by the Board of Tax Appeals to pay awards rendered by that board and other sundry matters. The format for these appropriations is a **supplemental appropriation bill**.

## INTERIM BUDGET PROCEDURES

### JOINT LEGISLATIVE COMMITTEE ON THE BUDGET

The Joint Legislative Committee on the Budget (Budget Committee) is composed of the members of the House Committee on Appropriations, the Senate Finance Committee, and the chairmen of both the House Ways and Means and Senate Revenue and Fiscal Affairs Committees or their designees from the members of those committees. The Budget Committee normally meets monthly.

During the interim the committee is authorized to approve or disapprove transfers of funds and budget adjustments through the BA-7 process, and to approve requests for use of interest earnings and for change orders for capital construction projects. The committee is also extended broad authority to interpret and oversee implementation of legislative intent regarding fiscal and budgetary matters.

The committee may hold hearings each year to review budget requests and the recommended executive budget, and report its findings and recommendations two weeks prior to each regular session.

### AVOIDANCE OF BUDGET DEFICITS

State law and constitution contain a variety of measures useful to address a projected or anticipated deficit in the state budget.

In the preparation of the state budget for an upcoming fiscal year, if the official forecast of recurring revenues for the new year is at least one percent less than the official forecast for the current fiscal year, the constitution provides that monies from dedicated funds may be made available and appropriated for purposes other than as is provided by law or constitution with respect to the use of monies in each respective fund. Certain restrictions exist, particularly with respect to the minimum foundation program.

Throughout the year, the division of administration submits a **General Fund Fiscal Status Statement** each month to the Budget Committee. This report presents the balance of the budget for the state general fund by comparing the official forecast of the Revenue Estimating Conference to the total general fund appropriations. If the report indicates that the total appropriation will exceed the official forecast,



the committee is required to notify the governor that a projected deficit exists.

Upon such notification that a deficit is projected, the governor may use his interim budget balancing powers to adjust the budget for any program that is supported by revenues from a fund that is projected to experience a deficit. These include limited specific reductions in the budgets of state agencies, the issuance of executive orders to freeze certain expenditures, the use of monies from dedicated funds to be transferred for use to support appropriations from the fund projected to experience a deficit, or ultimately the call for a special session to address the budget crisis. Some actions may require the prior approval of the Budget Committee.

**Budget Stabilization Fund** - Commonly known as the "rainy day fund", the Budget Stabilization Fund was established to provide support to the state budget in the event of an unexpected shortfall in projected revenue either during the fiscal year or from one fiscal year to the next. The fund receives deposits of monies from the following three sources: revenues which may not be appropriated within the current expenditure limit, excess mineral revenues, and 25% of revenues designated as nonrecurring by the Revenue Estimating Conference. The balance in the fund is capped at an amount equal to 4% of the total state revenue for the prior year.

Use of monies in the fund requires a two-thirds vote of the elected members of each house. Monies may only be used to cover all or part of a projected deficit in the current fiscal year or to compensate for all or part of a drop in revenue in the next fiscal year. No more than one-third of the fund may be used in any fiscal year to cover a projected deficit in that year and/or a projected decrease in revenue in the next fiscal year. (*Const. Art. VII, §10.3*).

As of July 1, 2011, the Budget Stabilization Fund had a balance of \$646.1 million. The fund cap for Fiscal Year 2010-2011 was \$801.4 million.

#### INTERIM EMERGENCY BOARD

The Interim Emergency Board (IEB), composed of the governor, lieutenant governor, state treasurer, the presiding officer of each house of the legislature, the chairman of the Senate Finance Committee, and the chairman of the House Committee on Appropriations, or their designees, **may appropriate money** between legislative sessions from the state general fund or may borrow on the full faith and credit of the state an amount necessary to meet an emergency. The total amount of such debt and appropriations must never exceed one-tenth of one percent of total state revenues for the previous fiscal year. Such appropriations or borrowing can only be made with the **written consent of two-thirds of the elected members of each house** of the

legislature and only for emergencies which are defined by the constitution as events not reasonably anticipated by the legislature. An “event not reasonably anticipated” is defined as one not considered and rejected, in the same relative form or content, by the legislature during the preceding session either by specific legislative instrument or amendment.

# THE CAPITAL OUTLAY PROCESS

## *The Capital Outlay Process and the Legislature's Role in Deciding Priorities and Funding of Construction Projects*

The executive budget estimate which is presented to the legislature for consideration each regular session contains a five-year capital outlay program which provides specifically for implementation of the first year of the program ("the capital outlay budget"). This is introduced during the regular session as the Capital Outlay Bill. Projects included in the bill may be funded by cash or by the sale of bonds. A project financed through the issuance of debt is eligible to receive funding through a line of credit issued by the State Bond Commission.

The capital outlay budget provides for financing two types of construction: (1) highway and public works construction; and (2) buildings and other construction and improvement projects.

### DEVELOPMENT

All requests for capital outlay financing must be submitted to the division of administration by November 1st of each year. Requests by non-state entities must be submitted through the members of the House and Senate in whose district the project will be located. As a practical matter, this requirement is customarily satisfied by a letter submitted to the division of administration evidencing specific endorsement of the project by the legislator. Requests which are filed after November 1st may also be eligible for an appropriation, but only under certain limited circumstances.

Capital outlay expenditures for construction of major state infrastructure projects (roads, bridges, etc.) are made pursuant to priority programs which are established by law. These programs are developed and administered by DOTD, with input from the legislature and the public.

All capital outlay projects must be evaluated through a feasibility study before they may be included in the Capital Outlay Bill. This evaluation is conducted by review of the capital outlay requests by the facility planning and control section of the division of administration, and by the Department of Transportation and Development for projects within a priority program.

### FUNDING PRIORITIES

Projects funded by general obligation bonds are divided into priorities numbered 1 through 5. Historically, priorities 1 through 4 were used to correspond to the quarters of the fiscal year, and priority 5 was used to indicate the funding that would be needed to continue multi-year projects into future years. Today Priority 1 is generally limited to reauthorization of certain previously authorized projects and commitments. Priority 2 is generally reserved for projects which will

**ENACTMENT  
AND  
IMPLEMENTATION**

be ready to begin in the next fiscal year. Priorities 3 and 4 are currently used to indicate intent for future year funding consideration. Priority 5 is reserved for dollar amounts which may be approved for non-cash lines of credit.

The Capital Outlay Bill is amended by the legislature through modification of projects in the bill, or addition of new (eligible) ones. The Omnibus Bond Authorization Bill provides the authorization for the sale of the bonds necessary to finance projects within the Capital Outlay Bill.

The method of financing included in the Capital Outlay Bill will differ from project to project. Cash appropriations become effective when the bill takes effect and the funds are available for the project at that time. Bond funding is contingent upon the project receiving a line of credit from the State Bond Commission. The Bond Commission is authorized to grant or withdraw cash and non-cash lines of credit for projects authorized in the Capital Outlay Act. The Act requires that the first order of funding is for cash lines of credit for Priority 1 projects. Thereafter, projects with Priority 2 funding may be considered for a cash line of credit. The granting of Priority 5 non-cash lines of credit is not contingent upon funding of the Priority 1 projects. During the interim between legislative sessions, project priorities and other parameters may be changed through action by the Interim Emergency Board.

Projects which receive cash as well as those which received a line of credit are for the most part administered by the office of facility planning and control. Recipient entities work with that office to access their funding. A few specific agencies, such as higher education institutions, administer their own capital outlay appropriations.